# Exhibit I

**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF NEW YORK**

| | |
|---|---|
| **INDEPENDENT ASSET MANAGEMENT LLC,**<br><br>**Plaintiff,**<br><br>**- against -**<br><br>**DANIEL ZANGER,**<br><br>**Defendant.** | **1:07-CV-06431-JSR** |

**EXPERT REPORT OF EZRA ZASK**

1. I have been asked by counsel for Independent Asset Management ("IAM" or "Plaintiff") to determine the damage to IAM's business and value that resulted from the actions of Daniel Zanger ("Zanger") while he acted as the manager of shares issued by The Independent Fund Limited ("IFL").

2. Based on my review of the materials provided to me by counsel and discussions with the Plaintiffs, and my knowledge and experience in the hedge fund industry, I have concluded the following:

   a. That IAM had a credible business model in place that would likely have resulted in a growth of assets under management and a valuable hedge fund business; and

b. That the actions of Dan Zanger while managing the IFL portfolio made it impossible for IAM to raise assets to manage and thus forced it to discontinue its operations.

3. In light of the rapid growth of the hedge fund industry, the high fees charged by trading managers, and the high value placed on hedge funds by acquirers, I would estimate that damages to IAM are in excess of $10 million and could potentially be much higher.

**Expert Background of Ezra Zask**

4. I have been active in the financial industry since 1981 in trading, fund raising, and management of trading entities in a variety of markets. I have worked in senior positions for hedge funds, hedge fund of funds, banks, and brokerages.

5. Between 1981 and 1991, I worked for two major international banks—Manufacturers Hanover Trust Company and Mellon Bank—in senior level positions in the capital markets divisions where my responsibilities included trading and managing trading areas in a variety of currency, interest rate, commodity and equity markets.

6. In 1991, I founded Ezra Zask Associates, LLC, a hedge fund, Commodities Trading Advisor (CTA) and Commodities Pool Operator (CPO) registered with the Commodities Futures Trading Commission (CFTC) and the National Futures Association (NFA) that managed up to $200 million in funds for clients in the United States, Europe, the Middle East, and Asia between 1991 and 1997.

7. In 1999 and 2000 I was a Managing Director and Research Director of Berkshire Capital Corporation (the predecessor firm to Berkshire Capital Securities LLC), an investment bank focused on mergers and acquisitions of asset management

companies, where I helped to develop the firm's hedge fund activities and wrote a widely disseminated study on the valuation of hedge funds. In 2006 I became an Advisory Director of Berkshire Capital Securities LLC, assisting the firm in the development of its hedge fund activities and its hedge fund valuation and expert witness business. I am a Registered Representative of Berkshire Capital Securities LLC, having passed the NASD Series 7 and 63 examinations.

8. I am the founder and President of Ezra Zask Advisors, LLC ("EZA"), a consulting and investment advisory company incorporated in the State of Connecticut. EZA provides a range of services to financial institutions including portfolio management, hedge fund due diligence and valuation, and fund raising. EZA also provides litigation support and expert witness services to law firms in cases involving securities, financial markets, derivatives and valuation.

9. I have published a number of books and articles on hedge funds and investment markets and am a frequent speaker at hedge fund and investment conferences. I am currently Professor in the Practice at the Lally School of Management and Technology of the Rensselaer Polytechnic Institute where I am responsible for the development of a teaching and research program on hedge funds and investment management. I have previously taught graduate business and finance courses at Carnegie Mellon, Princeton, and Yale Universities with a focus on hedge funds, investment management, derivatives, and international finance.

10. I received a Bachelor of Arts Degree in Economics from Princeton University in 1972; an M.A. and M.Phil. in International Studies from Columbia

University in 1975-76; and a Business Certificate from the NYU School of Management in 1979. A copy of my resume is attached hereto as Appendix A.

11. My compensation in this matter is $500 per hour.

**Independent Asset Management (IAM)**

12. IAM was established in 2001 as an investment manager (also known as trading manager) to market and manage the assets of a hedge fund. The company was founded by George Szele ("Szele") and Joseph Porco ("Porco") (jointly the "Partners"), both experienced marketers and trading managers of hedge funds. IAM was the trading manager for IFL, a Bermuda based fund that operates a number of share classes.

13. IAM was established for the purpose of establishing a hedge fund program that would raise assets, primarily from qualified investors (high net worth and institutional investors), manage these assets as using a variety of traders and trading strategies. As part of its business strategy (described below), IAM entered into an agreement with Zanger whereby Zanger agreed to manage a class of share issued by IFL, in this case, Class Z shares.

**Trends in the Hedge Fund Industry**

14. The assets managed by hedge funds have grown dramatically over the past 20 years, with the most dramatic growth occurring over the past decade. According to some estimates, the total assets invested in hedge funds now well exceed $2 trillion. Between December 2000 and December 2006, hedge fund assets increased by

over 500%.[1] The reasons for this growth include the ability of hedge funds to "go short" and generate positive returns even in declining markets as well their ability to use a variety of instruments to exploit niche markets throughout the world. Hedge funds typically charge a management fee of 1% to 2% of the assets under management, and receive 20% of any return they generate on these assets above a specified hurdle rate of return, subject to a high water mark. These fees are considerably higher than those of traditional asset management companies such as mutual funds.

**IAM's Business Strategy**

15. IAM was launched in 2001 to take advantage of the considerable interest in hedge funds by investors. In establishing IAM the Partners developed a business strategy aimed at attracting assets from qualified investors and managing these assets in a multi-manager program. The main components of IAM's business strategy, which were similar to those used by many successful hedge funds, were to develop an infrastructure, track record and organization that would allow it to attract assets from qualified investors and to manage these assets in a diversified, multi-manager fund program.

16. Given their experience in the hedge fund industry, the Partners were aware of the elements that were needed to implement their goals and proceeded to put many of these elements into practice. Specifically, IAM implemented the following:

---

[1] Lipper TASS Asset Flows – Second Quarter 2007 (Lipper TASS). This quarterly report is compiled from reports of over 4,500 hedge funds and is recognized as one of the industry's leading data providers. According to this report, hedge fund assets increased by 26.3% in 2001; 17.4% in 2002; 58.1% in 2003; 53.3% in 2004; 20.6% in 2005; and 35.3% in 2006.

a. IAM used well-established service provides including Goldman Sachs Execution and Clearing, L.P. (broker); Butterfield Fund Services (IFL's fund administrator); Deloitte & Touche and KPMG (auditors).

b. IAM's strategy was to develop a multi-strategy hedge fund program in which a number of traders and investment managers would trade in a variety of markets. Investors would then be able to choose from one or more strategies. This strategy is attractive to many investors because it offers them flexibility in their investments. Furthermore, the diversification offered by this type of program is an important factor in reducing the risk of investing in hedge funds. Over the past several years, multi-strategy hedge funds have attracted more assets than single strategy funds.

c. IAM's partners used their industry experience and contacts to follow an aggressive and professional marketing program aimed at attracting assets from a wide range of potential investors. Business Strategy (multi manager)

17. A key element in IAM's business strategy was to attract trading managers whose profile would be crucial in attracting assets into the company. IAM sought to achieve this goal by forming a joint venture with Zanger, a trader with a long track record and significant private assets that could be used to fund the initial program.

18. However, the Partners were careful to place constraints on Zanger's trading that would prevent the type of volatility he had exhibited in the past. IAM

retained an accounting firm to develop a pro-forma, industry standard performance record of Zanger's past trading, a crucial step in attracting investors.

19. Part of the arrangement with Zanger provided that he would maintain a significant amount of assets in the fund. This was critical in attracting investors for two reasons; first, to convince investors that the fund and the strategy can manage significant assets, and second to address the mandate of many institutional investors that their investment cannot be more than a certain percentage of the total fund assets (typically 5-20%). As the Partners pursued institutional investors, it would have been necessary for Zanger to provide assets of up to $50 million.

20. In my opinion, based on my experience in the hedge fund industry, the business strategy put into place by IAM had a significant probability of succeeding in raising assets. An additional attraction for investors was IAM's status as an "emerging manager." There is substantial research that indicates that emerging managers as a group significantly outperform more established funds. As a result, emerging managers have been successful in attracting assets.[2]

**The Effect of Zanger's Trading on IAM's Business**

21. In order to fully appreciate the effect of Zanger's trading on IAM's business outlook, it is useful to review the criteria investors use to decide whether to invest with a specific hedge fund.

---

[2] See HFR Industry Report – Third Quarter 2007). The HFR Report, for example, shows that over a 10year period (from 1998 to 2007) emerging managers returned an average of 15.32% per year compared to an average of 9.66% return for the entire hedge fund industry).[2]

22. Hedge funds are limited partnerships that are largely unregulated. In exchange for this lack of regulation, the government authorities have placed limitations on hedge funds including restrictions on advertising and solicitation and the restriction of hedge fund investors to high net worth individuals and institutional investors.

23. Because hedge funds are unregulated, they are not required to divulge important information. Investors therefore take a greater risk investing in hedge funds than other programs (for example mutual funds) and are therefore more likely to conduct thorough due diligence prior to making an investment decision. This is especially true in the case of new or "emerging" managers.

24. The factors investors consider in their due diligence process include the following: the background and experience of the key personnel; the trading strategy pursued by the fund; the reputation of the key service providers; the performance record of the fund, especially compared to the relevant peer group; the policies and procedure in place to contain or manage risk.

25. An important component of the due diligence process, and often critical for investors, is a hedge funds' track record in complying with regulatory and operational standards. It is well known to industry participants that most hedge funds fail, not because of poor performance, but because of deficiencies in their policies, procedures and operations. The reason this area of due diligence is so important is that it addresses the key question of the ability of the trading manager in safeguarding individuals' or institutions' investments.

26. Investors use a variety of methods to gauge this area of due diligence including using the services of companies that specialize in conducting background checks of key personnel. Investors often ask to speak to a fund's service providers, including brokers and administrators, to determine a hedge fund's performance. In the absence of audited performance records or short track records, investors will often ask to see trading documents including brokerage statements and trading reports.

27. Because hedge fund failures and frauds are well-publicized, investors are hesitant to invest in hedge funds, especially newer hedge funds, which have poor operational and risk controls.

28. In my opinion, the trading pattern exhibited by Zanger, and especially the closing of his accounts by Goldman Sachs and Butterfield, two of the most respected companies in the investment management industry, would have made it virtually impossible to attract investors into IAM and IFL.

**Economic Loss of the Partners**

29. In establishing the parameters for estimating the economic loss suffered by the Partners as a result of Zanger's trading, it is necessary to review the income that would have been generated under various assumptions of assets under management and the return or profit on these assets.

30. In my opinion, IAM's business strategy would have resulted in a sustainable hedge fund with significant assets under management had Zanger's trading not resulted in high volatility, large drawdowns, and the closing of IFL's trading accounts.

31. Assuming that assets under management after three years of trading were in the neighborhood of $200 million (a very conservative assumption of this industry) and that the fund returned 10% on these assets, the income to IAM would have been $4 million in management fees (2% of assets under management) and $4 million in incentive fees (20% of the trading revenues of $20 million).

32. The economic loss to the Partners is thus the reasonable potential for income in excess of $2-3 million per year over a significant number of years. This loss is very conservatively placed at $10 million, but could be much higher.

**Conclusion and Summary**

In my opinion, based on the materials I reviewed and my experience and expertise in the hedge fund industry, IAM was in a strong position to meeting its objectives as a viable hedge fund. Based on its investment strategy, personnel, organization, infrastructure, marketing, performance, clients and experience, IAM was in a position to grow along with the hedge fund industry and its peer group. However, the trading volatility and operational problems caused by Zanger, culminating in the closing of IFL's accounts by Goldman Sachs and Butterfield, made it impossible for IAM to continue its operation despite the investment of the Partners.

Respectfully submitted,

*s/ Ezra Zask*
Ezra Zask
February 29, 2007

# APPENDIX A

## RESUME OF EZRA ZASK

**EZRA ZASK**
30 Indian Mountain Road
Lakeville, CT 06039

**BERKSHIRE CAPITAL SECURITIES LLC; (2006-Present) Advisory Director**

**LALLY SCHOOL OF MANAGEMENT AND TECHNOLOGY, RENSSELAER POLYTECHNIC INSTITUTE, (2007-Present); Professor in the Practice**

**AZIMUTH ALTERNATIVE INVESTMENTS (2005-2006); Business Development**

- Responsible for strategy, asset raising and M&A for diversified fund of funds with $250mm AUM; focused on private banking, wealth management and family offices

**IBBOTSON ASSOCIATES ADVISORS, LLC (2002-2005); Founder and Manager**

- Founded successful hedge fund of funds sub-advisory program with manager due diligence; portfolio construction and optimization; asset allocation and risk management
- Clients included banks, fund of funds, family offices and S&P and Dow Jones hedge fund index

**EZRA ZASK ADVISORS, LLC, (EZA), (2001-Present); Founder and President**

- Expert witness and litigation support services
- Third Party Marketing for distressed, equity long short, fixed income, global macro, private equity
- Financial advisor on hedge fund investments for family offices
- Business development to company providing Internet asset allocation tools to investment advisors

**BERKSHIRE CAPITAL CORPORATION (1999-2000); Managing Director & Research Director**

- Research and business development for M&A firm specializing in financial services companies

**EZRA ZASK ASSOCIATES, LLC (1991-1998), Founder & President**

- Innovative and well-known CTA managed $200 million using market neutral currency and interest rate strategies and trend following futures trading program
- Partner in Raynor & Stonington (proprietary trading of market neutral strategies in FX, commodities, interest rates and equities) and Barrington Capital Management (Emerging market fixed income)

**MELLON BANK,** Capital Markets Group, Pittsburgh (1988-1991) **SVP Global Trading Manager**

- Managed 60 professionals, six dealing rooms and strategic trading in currency and interest rate spot, forwards, swaps and options. Managed strategic portfolio, trading and marketing,

**MANUFACTURERS HANOVER TRUST COMPANY**, (1980-1988), Capital Markets Group

- Managing Director and European Regional Treasury Manager, London
  - Managed 100 traders in Europe for FX and interest rate trading, marketing, risk management
- Vice President and Co-Chief Dealer, New York Trading Floor
- Vice President and Manager, International Treasury Consulting Group

**YALE UNIVERSITY SCHOOL OF MANAGEMENT,** 2005-6; Adjunct Professor
**PRINCETON UNIVERSITY BENDHEIM CENTER FOR FINANCE,** 2001-2005; Visiting Lecturer
**CARNEGIE MELLON UNIVERSITY**, (1998-90), Graduate School of Industrial Administration

**BUSINESS INTERNATIONAL CORPORATION,** Senior Associate, 1977 – 1980
Developed and marketed Country Risk Assessment Service on 80 countries for banks and corporations.

**PUBLICATIONS and INDUSTRY PARTICIPATION (Selective List)**

- *The E-Finance Report*, McGraw Hill, 2001
- *Global Investment Risk Management*, Edited, McGraw Hill, 1999
- Hedge Fund Industry Report and Hedge Fund Valuation, Berkshire Capital Corporation, May, 2000
- Online Brokerage Industry Report, Berkshire Capital Corporation, February, 2000
- Investment Management Industry Review 2000 (Berkshire Capital Corporation, June, 2000)
- Articles include: "Derivatives Risk-Management Audit," in Derivatives Risk and Responsibility, Robert A. Klein and Jess Lederman, editors, Irwin, 1996; "Currency Risk Management," in Strategic Currency Investing, A.W. Gitlin, Probus, 1993; "Credit Derivatives," and "Value-at-Risk for Hedge Funds," in Bloomberg Magazine, 1999
- Quoted in Wall Street Journal, Reuters, Bloomberg, and Nikkei News; Profiled in Forbes, Euromoney and Derivatives Strategy; Contributed weekly financial strategies column, "Risk and Reward" and the Options Strategist on equity options strategies for WorldlyInvestor.com (1999)
- Speaker at many hedge fund conferences for Euromoney; IIR; Infovest21; Institutional Investor; Opal

**EDUCATION**

- **COLUMBIA UNIVERSITY**, M.A., M. Phil., 1975; Columbia University President's Fellowship; New York State Herbert Lehman Fellowship; National Science Foundation Thesis Grant
- **PRINCETON UNIVERSITY**, B.A., 1972; Graduated cum Laude

By: *s/ Ezra Zask*